UNITED STATES OF AMERICA
MERIT SYSTEMS PROTECTION BOARD

EDWARD N. MAURER,
ESTATE OF ELY MAURER,
RUSSELL A. MAURER, AND
STEPHEN B. MAURER,
Appellants,

v.

OFFICE OF PERSONNEL MANAGEMENT,
Agency.

CSF 2 394 082

DOCKET NUMBERS
NY-0831-98-0357-I-1
NY-0831-98-0358-I-1
NY-0831-98-0359-I-1
NY-0831-98-0360-I-1

DATE: October 7, 1999

Edward N. Maurer, Esquire, Lido Beach, New York, for the appellants.

Kenneth R. Brown, Washington, D.C., for the agency.

BEFORE

Ben L. Erdreich, Chairman
Beth S. Slavet, Vice Chair
Susanne T. Marshall, Member

OPINION AND ORDER

¶1 The appellants have filed a petition for review in this case asking us to reconsider the initial decision issued by the administrative judge. We grant petitions such as this one only when significant new evidence is presented to us that was not available for consideration earlier or when the administrative judge made an error interpreting a law or regulation. The regulation that establishes this standard of review is found in Title 5 of the Code of Federal Regulations, section 1201.115 (5 C.F.R. § 1201.115).

¶2 After fully considering the filings in this appeal, we conclude that there is no new, previously unavailable, evidence and that the administrative judge made no error in law or regulation that affects the outcome. 5 C.F.R. § 1201.115(d). Therefore, we DENY the petition for review. However, we REOPEN the appeal on our own motion under 5 C.F.R. § 1201.118 and AFFIRM the initial decision, AS MODIFIED by this Opinion and Order, still SUSTAINING the reconsideration decision issued by the Office of Personnel Management (OPM).

BACKGROUND

¶3 Ely Maurer died on June 25, 1997, while still employed by the federal government. Initial Appeal File (IAF), Tab 6, Subtab 7. At the time of his death, Mr. Maurer had made contributions to the Civil Service Retirement System (CSRS) for over 50 years. *Id.*, Tab 6, Subtab 2. Because there was no survivor

eligible for an annuity, OPM determined that Mr. Maurer's three sons, appellants Stephen B. Maurer, Edward N. Maurer, and Russell A. Maurer, were entitled to their share of the lump-sum benefit, including interest on Mr. Maurer's excess CSRS contributions at the rate of 3% computed through the date of his death. *Id.*, Tab 6, Subtabs 2 and 7, and Tab 9. OPM made no payments to Mr. Maurer's estate, which is an appellant, and that decision has never been challenged in these proceedings. *Id.*, Tab 6, Subtab 7.

¶4 The appellants claimed that interest should be paid on the excess contributions and on the interest on the excess contributions at the rates applicable to a voluntary contribution account, and that interest was also due on their lump-sum benefit through the date it was paid to them. *Id.*, Tabs 1 and 15. The administrative judge found that the appellants were not entitled to the additional interest they sought.

ANALYSIS

¶5 Three statutory provisions govern this appeal. In the order implicated by Mr. Maurer's death, they are 5 U.S.C. § 8342(h), 5 U.S.C. § 8343, particularly subsections (a) and (e), and 5 U.S.C. § 8342(c). Section 8342(h) refers to section 8343, and section 8343(e) refers to section 8342(c), further indicating the order in which these statutory provisions are implicated.

¶6 The administrative judge appears to have found that sections 8342(h) and 8343 are ambiguous. Initial Decision (ID) at 9-10. As demonstrated below, the statutory provisions at issue are not ambiguous, and there is no need to go beyond them to ascertain their meaning. *See K Mart Corp. v. Cartier, Inc.*, 486 U.S. 281, 291, 108 S. Ct. 1811, 1817 (1988)**{** TA \l ". v. Cartier, Inc., 486 U.S. 281, 291, 108 S. Ct. 1811, 1817 (1988)" \c 1 **}**. Moreover, although the administrative judge concluded that OPM's regulations comported with her interpretation of sections 8342(h) and 8343, *see id.* at 10, we found no OPM regulation that addresses the treatment of excess CSRS contributions when an employee dies while still in

federal service, as was the case here, and neither the administrative judge nor OPM has identified any such applicable regulation. Thus, although the administrative judge arrived at the correct result, we reopen this appeal to explain how the statutory provisions actually operate in the circumstances arising from Mr. Maurer's death. *See generally Holley v. United States*, 124 F.3d 1462, 1468 (Fed. Cir. 1997)**{** TA \l "Holley v. United States, 124 F.3d 1462, 1468 (Fed. Cir. 1997)" \c 1 **}** (the provisions of a unified statutory scheme should be read in harmony, leaving no provision inoperative, superfluous, redundant, or contradictory).

Section 8342(h)

¶7 The statute at 5 U.S.C. § 8342(h) states, in its entirety, as follows.

> Amounts deducted and withheld from the basic pay of an employee or Member from the first day of the first month which begins after he has performed sufficient service (excluding service which the employee or Member elects to eliminate for the purpose of annuity computation under section 8339 of this title) to entitle him to the maximum annuity provided by section 8339 of this title, together with interest on the amounts at the rate of 3 percent a year compounded annually from the date of the deductions to the date of retirement or death, shall be applied toward any deposit due under section 8334 of this title, and any balance not so required is deemed a voluntary contribution for the purpose of section 8343 of this title.

The amount of service needed to entitle an employee to a maximum CSRS annuity is 41 years and 11 months. *Epstein v. Office of Personnel Management*, 64 M.S.P.R. 358, 359 & n.1 (1994)**{** TA \l "Epstein v. Office of Personnel Management, 64 M.S.P.R. 358, 359 & n.1 (1994)" \c 1 **}**. OPM determined that Mr. Maurer served more than 41 years and 11 months in positions covered by the CSRS, and that he "completed sufficient federal service by June, 1980, to qualify for the maximum earned annuity rate." IAF, Tab 6, Subtab 2, and Tab 9. Because Mr. Maurer was entitled to the "maximum annuity provided by section 8339,"

which is the stated precondition for triggering section 8342(h), OPM should have effected all of the procedures that are plainly mandated by section 8342(h).

¶8 The first thing that section 8342(h) requires is for OPM to determine the amount of the excess retirement contributions that were made by the retired or deceased employee. As described in the statute, the excess contributions consist of the contributions deducted and withheld from the employee's basic pay beginning with the first day of the month he became entitled to the maximum CSRS annuity and ending with the date of either his retirement or death. In this case, the relevant period for calculating the excess retirement contributions begins with the first day of July 1980, that is, the first day of the first month after Mr. Maurer became entitled to the maximum annuity, and ends on June 25, 1997, the day when he died. OPM computed Mr. Maurer's excess contributions based on this period of service, and the appellants do not challenge the amount of excess contributions. IAF, Tab 6, Subtab 7.

¶9 The next step under section 8342(h) is for OPM to calculate the interest on the excess contributions using a rate of 3%. OPM did this, and the appellants do not challenge the amount of interest due on Mr. Maurer's excess contributions based on the 3% rate applied by OPM. *Id.*

¶10 The statute then requires that OPM add together the excess contributions and the 3% interest payment due on the contributions. If there is any deposit owed by the employee under 5 U.S.C. § 8334 to cover prior periods of prior creditable service for which retirement contributions were not deducted from his basic pay, that is, noncontributory service, any such deposit shall be made, by operation of the statute, from the total of the excess CSRS contributions and interest. *Epstein v. Office of Personnel Management*, 64 M.S.P.R. 358, 361 (1994). In this case, OPM determined that no deposit was needed, and there is no challenge to that determination. IAF, Tab 6, Subtab 7.

¶11 The final procedure under section 8342(h) requires OPM to take the "balance" of the excess contributions and interest and "deem[]" it a "voluntary contribution for the purpose of section 8343." This is the point at which both OPM and the administrative judge failed to follow the statutory scheme. Both OPM and the administrative judge read the "deeming" requirement out of section 8342(h) and concluded that Mr. Maurer had to have opened a voluntary contribution account. IAF, Tab 6, Subtab 2; *id.*, Tab 9; ID at 10. This view is contrary to the plain language of section 8342(h), which mandates that excess contributions made through the date of death be "deemed" a voluntary contribution for purposes of section 8343.

¶12 To "deem" an action to have occurred is to consider it to have happened even though it did not actually take place. As the Supreme Court of the United States has stated, to "deem" an event to have taken place is to act "as if" it had occurred, even though it in fact did not. *Fidelity Financial Services, Inc. v. Fink*, 118 S. Ct. 651, 654 (1998); *see also Mississippi Power & Light Co. v. Mississippi ex rel. Moore*, 487 U.S. 354, 373, 108 S. Ct. 2428, 2440 (1988) (a particular quantity of power is "deemed unreasonably excessive" if lower-cost power is available elsewhere, even though the higher-cost power actually purchased is obtained at a reasonable price). When a statute or regulation "deems" something to be done or to have been done, the event is considered to have occurred whether or not it actually did. *See, e.g.*, *Fidelity Financial Services*, 118 S. Ct. at 656 (where the statute provided that a "transfer shall be deemed to be made or suffered at the time of the transfer," the transfer occurs on the date deemed under the statute, not at a later date when some other act, e.g., recordation or delivery, actually took place); *F.W. Woolworth Co. v. Taxation and Revenue Department*, 458 U.S. 354, 358 & n.6, 102 S. Ct. 3128, 3132 & n.6 (1982) (for purposes of calculating federal foreign tax credit, the statute "deemed" the corporation to have received business income "that it never actually received"); *Schweiker v. Gray Panthers*,

453 U.S. 34, 41-48, 101 S. Ct. 2633, 2639-42 (1981) (regulations that "deem" a spouse's income as available to a Medicaid applicant allow states to take into account the income of a spouse in establishing the other spouse's entitlement to Medicaid benefits whether or not the spouse's income is actually contributed to the applicant). Thus, even though Mr. Maurer never opened a voluntary contribution account, section 8342(h), by operation of law, establishes such an account for him using his excess contributions plus 3% interest. *Accord, e.g.*, *Pagoda Trading Co. v. United States*, 804 F.2d 665, 669 (Fed. Cir. 1986) (because there was no extension given by the agency, the imported merchandise was "deemed" liquidated "by operation of law" under the statute within one year of its entry into the United States); *Estate of Flanigan v. Commissioner*, 743 F.2d 1526, 1530 (11th Cir. 1984) (where a statute expressly states that, under certain conditions, a bequest in trust shall be "deemed" a transfer to charity by the decedent, a transfer to charity occurred even though such an event never happened in the decedent's lifetime).

¶13 With regard to the prior discussion, we note that in *Epstein v. Office of Personnel Management*, the Board found, based on the language in section 8342(h) and OPM's arguments, that a deposit for noncontributory service is a mandatory requirement of section 8342(h). 64 M.S.P.R. at 361. As described above, all of the steps set forth in section 8342(h) for handling excess retirement contributions flow from one another. Thus, a finding here that it was not mandatory for the balance of Mr. Maurer's excess retirement contributions to be deemed a voluntary contribution would arguably be inconsistent with *Epstein* and OPM's position in that case.

¶14 OPM asserted that its practice is to allow an employee who retires with excess contributions to use those contributions to purchase an "additional (monthly) annuity at the same % rate as that purchased with 'voluntary contributions.'" IAF, Tab 9. Given section 8342(h)'s express mandate that excess

contributions made through "the date of retirement or death" be deemed a voluntary contribution, we find unpersuasive OPM's assertion that Mr. Maurer is not entitled to have his excess contributions deemed a voluntary contribution, even though neither he nor the appellants can "use" those contributions to purchase an additional annuity, as can a retiree.[1] *Accord Enzian v. Office of Personnel Management*, MSPB Docket No. PH-831E-98-0362-I-1, slip op. at ¶ 13 (July 27, 1999) ("the Board is given the responsibility for ensuring that OPM's regulations are reasonable, consistent with statute, and applied fairly" (citation omitted)).

¶15 The appellants impliedly claimed that a "deemed" voluntary account is established at the time that the employee begins to make excess contributions. IAF, Tab 15, Appellants' Brief at 11-15. Their claim is implied because it arises from their contention that Mr. Maurer's deemed voluntary account should earn interest from July 1, 1980, when he began to make excess contributions, that is, because they alleged that interest is due from July 1, 1980, they necessarily are contending that the account is deemed established at that time. *Id.* Indeed, other than the interest on the voluntary contribution, the appellants identify no other benefit to them of having a voluntary contribution account established retroactive

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[1] In the case of an employee who, like Mr. Maurer, dies while in federal service, the statutory requirement deeming excess retirement contributions to be a voluntary contribution acts as the intermediate step before conversion of the voluntary contribution to a lump-sum benefit, since there is no other mechanism in the CSRS statute that allows the excess contributions of an employee who dies while in federal service to be paid out directly as a lump-sum benefit. However, for an employee who retires with excess CSRS contributions, the conversion of his excess contributions to a voluntary contribution by operation of law has implications for the employee himself in that he can either purchase an additional monthly annuity with the "deemed" voluntary contribution, elect an additional form of survivor annuity with it, or file an application with OPM to have the voluntary contribution paid to him. 5 U.S.C. § 8343(b)-(c). In fact, OPM has attempted to effect this statutory "deeming" requirement by sending excess contributions to a retiree and allowing him to "return his refund of 'excess contributions' to OPM to purchase additional (monthly) annuity," as if he had made a voluntary contribution which he then converts to an additional annuity. IAF, Tab 9.

from the date of their father's death. [As discussed below, the appellants do not clearly state whether they believe interest is due to Mr. Maurer for a deemed voluntary account retroactive to July 1, 1980, or to them as the recipients of a lump-sum benefit that constitutes the proceeds of their father's voluntary contribution. For purposes of this discussion, we will treat their argument as being the former.] The appellants' argument fails for several reasons.

¶16 First, as discussed more fully below, there is no statutory provision for setting up a retroactive voluntary contribution account, let alone a statutory provision for paying retroactive interest on such an account. Second, section 8342(h) permits OPM to pay only 3% interest on the excess contributions from the date when the maximum annuity is earned until the date of either retirement or death. There is no provision authorizing OPM to pay interest on that interest, that is, to pay interest under the variable rate schedule for voluntary contributions on the 3% interest earned for the excess contributions. Indeed, as the administrative judge noted, OPM's regulations at 5 C.F.R. § 831.405(b) provide that interest does not begin to accumulate on voluntary contributions until the date that the funds are actually deposited. ID at 10.

¶17 Third, as discussed above, when a statute deems an event to have taken place, it deems it to have occurred at the time set forth in the statute -- no earlier and no later. Section 8342(h) contains the steps leading up to the deeming of the balance of the excess retirement contributions as a voluntary contribution, and the deeming step takes place only after the excess contributions are totaled, the balance of the excess contributions is determined after making a deposit for any noncontributory service, and 3% interest is paid on the balance. The logical and only reasonable interpretation of the statute is that the balance of excess contributions is deemed to be a voluntary contribution which is prospective in nature and which becomes a voluntary contribution account only after the above steps have been taken. If Congress had wanted to make the deemed voluntary

contribution retroactive to the date when a maximum annuity was earned, it could have done so. It did not, and we will not read a retroactivity provision into section 8342(h). As pointed out below, to read such a retroactivity provision into the statute would result in a payment of interest from the public fisc that is not authorized by statute.

¶18 Fourth, the legislative history on which the appellants rely is consistent with this outcome. The legislative history of the amendment that added section 8342(h) to the CSRS statute shows that Congress's intent in requiring that the balance of an employee's excess contributions be deposited in the retirement fund as a voluntary contribution was to give him the opportunity "to pay for additional annuity benefits in accordance with the existing voluntary contribution provisions" of the CSRS. H.R. Rep. No. 86-1916, at 2 (1960), *reprinted in* 1960 U.S.C.C.A.N. 2958, 2959; IAF, Tab 16. The ability to elect, prospectively, an additional annuity based on the deemed voluntary contribution was the reason why Congress mandated that excess contributions be deemed a voluntary contribution; there is no suggestion that the deemed voluntary contribution would also set up a retroactive voluntary contribution account on which the employee would receive retroactive interest. In fact, the legislative history confirms that the only interest to be paid on the amount of the excess contributions, whether as excess contributions or as a deemed voluntary contribution, was the 3% interest set forth in section 8342(h), and which OPM has already paid to the appellants. *Id.* at 4, *reprinted in* 1960 U.S.C.C.A.N. at 2961 (report of the U.S. Civil Service Commission); IAF, Tab 16.

¶19 We also note that OPM's regulation at 5 C.F.R. § 831.403(b)(1) states, in relevant part, that "[v]oluntary contributions may not be accepted from an employee ... who has not deposited amounts covering all creditable service performed by him or her." The statute requires that the excess retirement contributions made through the employee's date of death be used to make a

deposit for all periods of noncontributory service as a prerequisite for having the balance of the excess contributions be deemed a voluntary contribution. 5 U.S.C. § 8342(h). The statutory deposit requirement for an individual who dies while employed is easily harmonized with the regulation, provided the deposit is followed by the establishment of a voluntary contribution account. This supplies further support for our finding that Mr. Maurer did not need to open a voluntary contribution account during his lifetime, as found by the administrative judge, but, rather, his excess contributions are deemed a voluntary contribution by operation of law after his death.

¶20 The statute at 5 U.S.C. § 8342(h) provides that Mr. Maurer's excess retirement contributions, with 3% interest, are to be "deemed a voluntary contribution for purpose of section 8343." Thus, we now examine section 8343 to determine the disposition of that voluntary contribution.

Sections 8343(a), 8343(e), and 8342(c)

¶21 Section 8343(a) provides that a "voluntary contribution account in each case is the sum of unrefunded contributions, plus interest at 3 percent a year through December 31, 1984, and thereafter at the rate computed under section 8334(e)," which provides for a variable rate of interest. However, section 8343(a)(2) states that interest on a voluntary contribution account shall not be computed beyond an employee's "separation" from federal service. Since Mr. Maurer's excess CSRS contributions were deemed to be a voluntary contribution as of the date of his death by operation of section 8342(h), and since no interest can be paid after his separation from service, which occurred that same day, no interest is due on his voluntary contribution.

¶22 Section 8343(e) provides that "[i]f a former employee or Member not retired dies, the voluntary contribution account is paid under section 8342(c)." Because Mr. Maurer was not retired when he died, his "deemed" voluntary contribution, which includes the 3% interest computed under section 8342(h), is to be paid

under section 8342(c). Section 8342(c) contains the statutory requirements for payment of a lump-sum benefit. OPM paid a lump-sum benefit to the appellants under section 8342(c) and computed the benefit based on their father's excess retirement contributions plus 3% interest. Although OPM (and the administrative judge) ignored the statutory step of deeming the excess contributions and 3% interest as a voluntary contribution, OPM's ultimate determination regarding the amount of the lump-sum benefit was correct. Thus, we sustain OPM's reconsideration decision.[2]

Interest due

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[2] Although OPM reached the correct result despite its failure to deem the excess contributions and 3% interest to be a voluntary contribution, this does not mean that the deeming requirement is redundant or superfluous. On the contrary, as discussed in note 1, the deeming requirement could have a substantive impact on a retiree with excess retirement contributions if that employee chooses to elect an additional annuity with his deemed voluntary contribution. Moreover, in the absence of any statutory provision for paying Mr. Maurer's excess retirement contributions directly to the appellants as a lump-sum benefit, the only way, under the statute, for the appellants to receive those excess contributions is if the excess contributions are first converted into a deemed voluntary contribution and then paid to them as a lump-sum benefit by operation of 5 U.S.C. §§ 8343(e) and 8342(c). Likewise, if an employee with excess contributions is survived by a spouse, the deeming provision of section 8342(h) provides the method by which the surviving spouse receives those excess contributions, namely, as a refund of the deceased employee's "deemed" voluntary contribution paid out as a lump-sum benefit. Thus, the deeming requirement has a material role to play in cases, such as this one, where the federal employee dies while in service. The requirement therefore is not superfluous.

On this point, we note that neither in its reconsideration decision nor in any of its submissions in these proceedings did OPM explain the authority under which it paid Mr. Maurer's excess contributions directly to the appellants as a lump-sum benefit without first deeming the excess contributions to be a voluntary contribution. IAF, Tab 6, Subtab 2, and Tabs 9 and 11. Because we find that sections 8342(h), 8343(e), and 8342(c), when taken together, gave OPM the authority to pay the lump-sum benefit to the appellants, and because we conclude that the appellants are entitled to no interest other than the interest already paid to them by OPM (as explained below), we find no prejudicial error in OPM's failure to deem the excess contributions to be a voluntary contribution before paying the lump-sum benefit to the appellants.

¶23 Regarding the interest computations, the appellants asserted that interest was due on the excess contributions after June 1980, the time at which their father's service entitled him to the maximum annuity, and continuing through June 25, 1997, the date of his death. IAF, Tab 6, Subtab 4, and Tab 9. According to the appellants, interest on the excess contributions was due not only at the 3% rate used by OPM, but was due through the end of 1984 at a rate of another 3% and, after 1984, at the variable rate computed under 8334(e). In other words, the appellants want interest on the excess contributions under the 3% rate set in 5 U.S.C. § 8342(h), which OPM has paid, as well as interest under 5 U.S.C. § 8343(a). Although the appellants entitle their argument "Computation of Lump Sum Benefit Under CSRS for Ely Maurer," it is unclear whether they believe that the additional interest was due to their father as part of his deemed voluntary contribution or whether they believe that the additional interest is due to them as part of their lump-sum benefit. IAF, Tab 6, Subtab 4. In either case, their contention lacks merit.

¶24 As explained above, under 5 U.S.C. § 8342(h), Mr. Maurer's excess CSRS contributions were enhanced by interest at the rate of 3% and the balance of the contributions and interest (after any deposit for noncontributory service) was "deemed a voluntary contribution." As further explained above, once a voluntary contribution was established by operation of law, no interest was due on it; instead, it was paid out to the appellants as a lump-sum benefit, as provided by statute. Thus, no interest was due to Mr. Maurer on his "deemed" voluntary contribution. If it were otherwise, he would receive double interest on his excess contributions plus interest on interest. That is to say, if the appellants are correct, their father's excess CSRS contributions and the 3% paid on it under 5 U.S.C. § 8342(h) would both earn interest under 5 U.S.C. § 8343(a) at either a 3% or a variable rate. Based on their interpretation of the statute, the appellants claimed over $63,000 in additional interest. IAF, Tab 16, Appellants' Exhibit A.

¶25 There is no provision in 5 U.S.C. § 8343 or elsewhere, nor did the appellants cite to any such provision, that allows for the retroactive establishment of a voluntary contribution account, let alone payment of interest on a retroactively established account, particularly where, as here, interest has already has been paid on the excess contributions that formed the basis of the deemed voluntary contribution. The only interest provided under statute for Mr. Maurer's excess CSRS contributions is the 3% rate authorized in 5 U.S.C. § 8342(h).

¶26 Payments of moneys from the federal treasury are limited to those authorized by statute. *Office of Personnel Management v. Richmond*, 496 U.S. 414, 416, 434, 110 S. Ct. 2465, 2467, 2476 (1990). Because no statutory authority exists for paying the interest that the appellants seek on the deemed voluntary contribution, OPM properly did not pay such interest.

¶27 Similarly, as the administrative judge found, there is no statute that authorizes an award of interest on lump-sum benefits under the CSRS. ID at 11. Indeed, as he noted, the appellants conceded that no such statute exists. *Id.* "The United States is immune from a claim for interest on a sum due and owing to a private party in the absence of an express statutory provision indicating that Congress intended for interest to accrue." *Chappell v. Office of Personnel Management*, 55 M.S.P.R. 260, 263 (1992) (citing *Library of Congress v. Shaw*, 478 U.S. 310, 317, 106 S. Ct. 2957, 2962 (1986)). OPM therefore correctly denied the appellants' request for interest on their lump-sum benefit from the date of their father's death until the date when the benefit was paid to them. *See Richmond*, 496 U.S. at 416, 434, 110 S. Ct. at 2467, 2476.

¶28 Accordingly, we sustain OPM's reconsideration decision.

ORDER

¶29 This is the final decision of the Merit Systems Protection Board in this appeal. 5 C.F.R. § 1201.113(c).

NOTICE TO THE APPELLANTS REGARDING
YOUR FURTHER REVIEW RIGHTS

You have the right to request the United States Court of Appeals for the Federal Circuit to review this final decision. You must submit your request to the court at the following address:

United States Court of Appeals
for the Federal Circuit
717 Madison Place, N.W.
Washington, DC 20439

The court must receive your request for review no later than 60 calendar days after your receipt of this order. If you have a representative in this case, and your representative receives this order before you do, then you must file with the court no later than 60 calendar days after receipt by your representative. If you choose to file, be very careful to file on time. The court has held that normally it does not have the authority to waive this statutory deadline and that filings that do not comply with the deadline must be dismissed. *See Pinat v. Office of Personnel Management*, 931 F.2d 1544 (Fed. Cir. 1991).

If you need further information about your right to appeal this decision to court, you should refer to the federal law that gives you this right. It is found in Title 5 of the United States Code, section 7703 (5 U.S.C. § 7703). You may read this law as well as review other related material at our web site, http:\\www.mspb.gov.

FOR THE BOARD: _____
Robert E. Taylor
Clerk of the Board

Washington, D.C.